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**UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JORDAN NELSON and REGINA PERALTA,)
 individually and on behalf of all others similarly)
 situated,)

Plaintiffs,
 vs.

KENVUE, INC., MCNEIL CONSUMER
 HEALTHCARE, JOHNSON & JOHNSON
 CONSUMER, INC., CVS PHARMACY, INC.,
 HALEON US CAPITAL LLC, GSK PLC,
 ALBERTSONS COMPANIES, INC., TARGET
 CORPORATION, WALMART INC., and
 PERRIGO COMPANY PLC,

Defendants.

Case No. 4:23-cv-04875-HSG

**STIPULATION AND ORDER
 TO SUBSTITUTE PARTY
 NAME, AMEND CAPTION, AND
 TO ENLARGE TIME FOR
 RESPONSIVE PROCEEDINGS
 PENDING MDL
 DETERMINATION**

Judge: Hon. Haywood S. Gilliam, Jr.
 Courtroom: 2 – 4th Floor

1 **WHEREAS**, oral argument on the MDL Petition is scheduled to take place on November 30,
 2 2023 before the JPML panel, *see In re: Oral Phenylephrine Marketing and Sales Practices Litigation*,
 3 MDL No. 3089, ECF No. 166;

4 **WHEREAS**, this Court has the inherent power to grant a stay, especially in circumstances
 5 such as here, where doing so would promote judicial economy and avoid prejudice to the parties, *see*,
 6 *e.g., Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936); *Gutierrez v. Samsung Elecs. Am., Inc.* 2022
 7 WL 15398352, at *1 (N.D. Cal. Oct. 27, 2022) (granting stipulation to stay pending JPML decision);
 8 *L.A.T. v. Meta Platforms, Inc.*, 2022 WL 4279709, at *1 (N.D. Cal. Sept. 15, 2022) (same); *Butler v.*
 9 *McKesson Corp.*, 2013 WL 4104093, at *2 (Aug. 12, 2013 N.D. Cal.) (granting motion to stay pending
 10 contested motion to transfer to MDL);

11 **WHEREAS**, absent relief from currently pending deadlines, the Court and the parties would
 12 face responsive pleading deadlines and, in light of the possibility that there will be an MDL
 13 consolidating the Related Actions for the purpose of pretrial proceedings, an extension of those
 14 deadlines is prudent to avoid duplication of pretrial efforts by the parties, any waste of judicial
 15 resources, and the risk of conflicting rulings;

16 **WHEREAS** the parties have met and conferred and agree that responsive pleading deadlines
 17 should be stayed pending resolution of the MDL Petition;

18 **THEREFORE, THE PARTIES HEREBY STIPULATE, AGREE AND**
 19 **RESPECTFULLY REQUEST THAT:**

- 20 1. Defendants “Haleon US Capital LLC” and “GSK plc” are dismissed without prejudice and will
 21 be replaced by defendant “GlaxoSmithKline Consumer Healthcare Holdings (US) LLC” and
 22 the caption in this action shall be amended to reflect that substitution;
- 23 2. Defendants “Kenvue, Inc.” and “McNeil Consumer Healthcare” are dismissed without
 24 prejudice and the caption in this action shall be amended to reflect that dismissal;

- 1 3. This Court stays any served Defendant's deadline to answer, move, or otherwise plead in
2 response to the Complaint, or any subsequently filed amended complaint until further order of
3 this Court or any Court to which the JPML assigns the Related Actions;
- 4 4. Because this case has been submitted to the JPML as a related case, the Court will receive
5 notice from the JPML if an MDL is formed. If the JPML denies the motion to form an MDL,
6 the Parties will meet and confer within 14 days of the JPML's ruling and prepare a joint status
7 report for the Court;
- 8 5. The parties' entry into this stipulation does not constitute a waiver of any jurisdictional
9 defenses that may be available under Rule 12 of the Federal Rules of Civil Procedure, including
10 personal jurisdiction, a waiver of any defenses under Rule 8 of the Federal Rules of Civil
11 Procedure, or a waiver of any other statutory or common law defenses that may be available
12 to any Defendant in this action, the Related Actions, or both. Defendants expressly reserve
13 their rights to raise any such defenses in response to any operative or amended complaint that
14 may be filed relating to this action.

1 Dated: October 18, 2023

Respectfully submitted,

2 /s/ Sarah N. Westcot

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14 Dated: October 18, 2023

Respectfully submitted,

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11 **SIGNATURE ATTESTATION**

12 Pursuant to Local Rule 5-1(i)(3) regarding signatures, I, Sarah N. Westcot, attest that
13 concurrence in the filing of this document has been obtained by the other signatory to this document.
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15 By: /s/ Sarah N. Westcot

17 **IT IS SO ORDERED.**

19 Dated: 10/19/2023

18 
20 HAYWOOD S. GILLIAM, JR.
21 United States District Judge
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